

SENATE BILL 5

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2004 Regular Session
(4lr0381)

ENROLLED BILL
-- Judicial Proceedings/Judiciary --

Introduced by **Senator McFadden (Chairman, Joint Audit Committee) and
Senators Hogan, Kramer, Lawlah, Stoltzfus, and Garagiola**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this
____ day of _____ at _____ o'clock, ____ M.

President.

CHAPTER _____

1 AN ACT concerning

2 **Attorney General - Prosecution of Criminal Offenses Reported by the Office**
3 **of Legislative Audits**

4 FOR the purpose of repealing a requirement that the Legislative Auditor report
5 ~~certain alleged violations of law by a unit of State government or other body that~~
6 ~~is audited or reviewed by the Office of the Legislative Auditor under certain~~
7 ~~circumstances; repealing a requirement that the Attorney General respond to~~
8 ~~certain persons regarding certain actions taken by the Attorney General based~~
9 ~~on a certain report by the Legislative Auditor~~ a certain alleged default by an
10 officer or employee who is subject to audit or review to the Attorney General and
11 a certain State's Attorney; authorizing requiring the Legislative Auditor to report
12 to the Attorney General and the State's Attorney any alleged criminal violation
13 by a person discovered during the course of an audit ~~or review, review, or~~
14 investigation; requiring the Attorney General and the State's Attorney to keep a
15 certain report of an alleged criminal violation confidential under certain
16 circumstances; authorizing the Attorney General to investigate and prosecute

1 any alleged criminal violation reported by the Legislative Auditor under certain
 2 circumstances; authorizing the Attorney General to exercise all the powers and
 3 duties of a State's Attorney to investigate and prosecute certain alleged criminal
 4 violations under certain circumstances; creating an exception to certain
 5 confidentiality requirements of the Legislative Auditor under certain
 6 circumstances; and generally relating to the authority of the Attorney General
 7 to investigate and prosecute certain alleged criminal violations reported by the
 8 Legislative Auditor under certain circumstances.

9 ~~BY repealing~~

10 ~~Article - State Government~~
 11 ~~Section 2-1225~~
 12 ~~Annotated Code of Maryland~~
 13 ~~(1999 Replacement Volume and 2003 Supplement)~~

14 ~~BY adding to~~

15 ~~Article - State Government~~
 16 ~~Section 2-1225~~
 17 ~~Annotated Code of Maryland~~
 18 ~~(1999 Replacement Volume and 2003 Supplement)~~

19 BY repealing and reenacting, with amendments,

20 Article - State Government
 21 Section 2-1225 and 2-1226
 22 Annotated Code of Maryland
 23 (1999 Replacement Volume and 2003 Supplement)

24 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
 25 MARYLAND, That the Laws of Maryland read as follows:

26 **Article - State Government**

27 ~~§2-1225.~~

28 (a) (1) In addition to the report under § 2-1224 of this subtitle, the
 29 Legislative Auditor shall report an apparent violation of any law on use of State funds
 30 by the unit of the State government or other body that is audited or reviewed.

31 (2) A report under this subsection shall be submitted to:

- 32 (i) the Joint Audit Committee;
- 33 (ii) the Executive Director;
- 34 (iii) the unit or body that is the subject of the report; and
- 35 (iv) the Office of the Attorney General.

1 (b) (1) ~~The Legislative Auditor shall report to the Attorney General and an~~
 2 ~~appropriate State's Attorney an apparent default to the State for any money by an~~
 3 ~~officer or employee who is subject to audit or review~~ IF THE LEGISLATIVE AUDITOR
 4 DISCOVERS ANY ALLEGED CRIMINAL VIOLATION BY A PERSON DURING THE COURSE
 5 OF AN AUDIT, REVIEW, OR INVESTIGATION, THE LEGISLATIVE AUDITOR SHALL
 6 REPORT THE ALLEGED VIOLATION TO THE ATTORNEY GENERAL AND AN
 7 APPROPRIATE STATE'S ATTORNEY.

8 (2) A report under this subsection shall ask the Attorney General and
 9 State's Attorney to take appropriate action.

10 (3) UNLESS THE ATTORNEY GENERAL OR STATE'S ATTORNEY DECIDES
 11 TO PROSECUTE AN ALLEGED CRIMINAL VIOLATION REPORTED UNDER THIS
 12 SUBSECTION, THE ATTORNEY GENERAL AND STATE'S ATTORNEY SHALL KEEP THE
 13 REPORT OF THE LEGISLATIVE AUDITOR UNDER THIS SUBSECTION CONFIDENTIAL.

14 (4) THE ATTORNEY GENERAL MAY INVESTIGATE AND PROSECUTE ANY
 15 ALLEGED CRIMINAL VIOLATION REPORTED UNDER THIS SUBSECTION AND HAS ALL
 16 THE POWERS AND DUTIES OF A STATE'S ATTORNEY, INCLUDING THE USE OF A
 17 GRAND JURY IN ANY COUNTY OR BALTIMORE CITY, TO INVESTIGATE AND
 18 PROSECUTE THE ALLEGED VIOLATION.

19 (c) (1) The Office of the Attorney General shall respond, in writing, to a
 20 report received from the Legislative Auditor under this section.

21 (2) The response of the Attorney General shall include what actions, if
 22 any, were taken as a result of the findings of the Legislative Auditor.

23 (3) The response of the Attorney General shall be submitted to:

24 (i) the Joint Audit Committee;

25 (ii) the Executive Director;

26 (iii) the unit or body that is the subject of the report; and

27 (iv) the Legislative Auditor.‡

28 ~~2-1225.~~

29 ~~(A) IF THE LEGISLATIVE AUDITOR DISCOVERS ANY ALLEGED CRIMINAL~~
 30 ~~VIOLATION BY A PERSON DURING THE COURSE OF AN AUDITOR REVIEW, REVIEW, OR~~
 31 ~~INVESTIGATION, THE LEGISLATIVE AUDITOR MAY REPORT THE ALLEGED VIOLATION~~
 32 ~~TO THE ATTORNEY GENERAL.~~

33 ~~(B) UNLESS THE ATTORNEY GENERAL DECIDES TO PROSECUTE AN ALLEGED~~
 34 ~~CRIMINAL VIOLATION REPORTED UNDER SUBSECTION (A) OF THIS SECTION, THE~~
 35 ~~ATTORNEY GENERAL SHALL KEEP THE REPORT OF THE LEGISLATIVE AUDITOR~~
 36 ~~UNDER SUBSECTION (A) OF THIS SECTION CONFIDENTIAL.~~

1 ~~(C) THE ATTORNEY GENERAL MAY INVESTIGATE AND PROSECUTE ANY~~
2 ~~ALLEGED CRIMINAL VIOLATION REPORTED UNDER SUBSECTION (A) OF THIS~~
3 ~~SECTION AND HAS ALL THE POWERS AND DUTIES OF A STATE'S ATTORNEY,~~
4 ~~INCLUDING THE USE OF A GRAND JURY IN ANY COUNTY OR BALTIMORE CITY, TO~~
5 ~~INVESTIGATE AND PROSECUTE THE ALLEGED VIOLATION.~~

6 2-1226.

7 (a) Except as provided in § 2-1225 OF THIS SUBTITLE AND subsection (b) of this
8 section, information that an employee of the Office of Legislative Audits obtains
9 during an audit or review:

10 (1) is confidential; and

11 (2) may not be disclosed except to another employee of the Office of
12 Legislative Audits.

13 (b) The Legislative Auditor may authorize the disclosure of information
14 obtained during an audit or review only to the following:

15 (1) another employee of the Department, with the approval of the
16 Executive Director;

17 (2) federal, State, or local officials, or their auditors, who provide
18 evidence to the Legislative Auditor that they are performing investigations, studies,
19 or audits related to that same audit or review and who provide justification for the
20 specific information requested; or

21 (3) the Joint Audit Committee, if necessary to assist the Committee in
22 reviewing a report issued by the Legislative Auditor.

23 (c) [If] EXCEPT AS PROVIDED IN § 2-1225 OF THIS SUBTITLE, IF information
24 that an employee obtains during an audit or review also is confidential under another
25 law, the employee or the Legislative Auditor may not include in a report or otherwise
26 use the information in any manner that discloses the identity of any person who is the
27 subject of the confidential information.

28 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take
29 effect October 1, 2004.